

CWR: Scientific Support

- The agencies' interpretation of the CWA's scope is supported by a peer-reviewed scientific literature **Science Report** summarizing more than 1,200 peer-reviewed, published scientific studies
- The **Technical Support Document** utilizes the Science Report and the articles it cites, as well as additional scientific literature to provide the scientific support for the rule
- EPA's **Science Advisory Board** commented on both the Science Report and the proposed rule, concluding that the waters included in the proposed rule were supported by available science and that the agencies had the scientific basis to include more

CWR: Process

- EPA was criticized for inadequate consultation before the CWR proposal. In response, after proposal the agency undertook **extensive outreach**
- Agencies held two in-person meetings with **small entity** representatives to discuss their thoughts on how to define WOTUS. Their input is reflected in the CWR and summarized in a report
- Agencies consulted with **state, tribal, and local officials** throughout the process. The CWR reflects their input, which also is summarized in a report
- Proposed rule was subject to **public comment**, starting in May 2014
 - Received 1.1 million comments in a 207-day comment period
 - Over 400 stakeholder meetings
 - Interagency review
- **Final rule** signed May 2015, published June 2015, effective August 2015

CWR: Ongoing Litigation



- The CWR is being challenged in the Sixth Circuit Court of Appeals and in district courts
- Issue of “which court has jurisdiction” currently is before the U.S. Supreme Court
 - Briefing and further steps in the Sixth Circuit on the merits of the CWR are stayed pending the Supreme Court’s decision
 - Decision expected before July 2017
- The Sixth Circuit issued a temporary nationwide stay of the CWR in October 2015

Waters of the US and its Longstanding Regulatory Definition (dates to mid-1980s)

- This is the **definition in use today** during ongoing litigation over the Clean Water Rule
- **Definition includes:**
 - Waters used/historically used/susceptible to use in interstate commerce
 - Interstate waters and wetlands
 - All other waters ... the use, degradation, or destruction of which could affect interstate commerce
 - Impoundments of WOTUS
 - Tributaries of above waters
 - Territorial seas
 - Wetlands adjacent to above waters
 - Excludes: prior converted cropland, waste treatment systems

Questions and Discussion

